

Before the
Federal Communications Commission
Washington, D.C. 20554

In re Application of
Roger L. Hoppe, II
For Renewal and Assignment of License for
Station KLIM(AM), Limon, Colorado
NAL/Acct. No. MB-201641410014
FRN: 0006773196
Facility ID No. 25185
File Nos. BR-20121231AME, BAL-
20141224AAH

ORDER

Adopted: October 4, 2016

Released: October 5, 2016

By the Chief, Media Bureau:

1. In this Order, we adopt the attached Consent Decree entered into by the Media Bureau (Bureau) and Roger L. Hoppe, II (Licensee), licensee of Station KLIM(AM), Limon, Colorado (Station). The Consent Decree resolves issues arising from the Bureau’s review of the captioned applications to renew the Station’s license (Renewal Application) for the Station and to assign the license to Catholic Radio Network, Inc., specifically whether the Licensee violated Section 73.1740 of the FCC’s Rules (Rules) by discontinuing operation of the Station without timely requesting special temporary authority. On August 5, 2016, the Bureau issued a Notice of Apparent Liability to Licensee in the amount of \$5,000 for this violation. License filed a response to the NAL on September 6, 2016, requesting a reduction of the amount of the proposed forfeiture.

2. We have negotiated the attached Consent Decree, which provides for the Licensee to make a civil penalty payment to the United States Treasury in the amount of \$1,500, reduced from the proposed forfeiture amount based on the Bureau’s review of Licensee’s tax returns. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree, we find that the public interest will be served by its approval and by terminating all pending proceedings relating to the Bureau’s consideration of potential violations of the Rules disclosed in Licensee’s Renewal Application.

4. Based on the record before us, we conclude that nothing in that record creates a substantial or material question of fact whether Licensee possesses the basic qualifications to remain a Commission licensee and has satisfied the standards in Section 309(k)(1) of the Communications Act of 1934, as amended, for renewal of the Station’s license.

1 47 CFR § 73.1740.

2 Roger L. Hoppe, II, Memorandum Opinion and Order and Notice of Apparent Liability, DA 16-895 (MB Aug. 5, 2016) (NAL).

5. ACCORDINGLY, IT IS ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended,³ and by the authority delegated by Sections 0.61 and 0.283 of the FCC's Rules,⁴ the Consent Decree attached hereto IS ADOPTED.

6. IT IS FURTHER ORDERED, pursuant to Section 503(b) of the Communications Act of 1934, as amended, and Section 1.80 of the FCC's Rules,⁵ that the *Notice of Apparently Liability for Forfeiture* issued to Roger L. Hoppe, II, for willfully violating Sections 73.1740 of the FCC's Rules IS HEREBY REDUCED to \$1,500.

7. IT IS FURTHER ORDERED that the investigation by the Media Bureau of the matters noted above IS TERMINATED.

8. IT IS FURTHER ORDERED that copies of this Order shall be sent, by First Class and Certified Mail, Return Receipt Requested, to the Roger L. Hoppe, II, P.O. Box 80495, Rochester, MI 48308, and to his counsel, Frank Jazzo, Esq., Fletcher, Heald & Hildreth, 1300 N. 17th Street, 11th Floor, Arlington, VA 22209.

FEDERAL COMMUNICATIONS COMMISSION

William T. Lake
Chief, Media Bureau

³ 47 U.S.C. § 4(i).

⁴ 47 CFR §§ 0.61, 0.283.

⁵ 47 U.S.C. § 503(b); 47 CFR § 1.80.

CONSENT DECREE**I. Introduction**

1. This Consent Decree is entered into by: (a) the Media Bureau of the Federal Communications Commission; and (b) Roger L. Hoppe, II, licensee of Station KLIM(AM), Limon, Colorado.

II. Definitions

2. For the purposes of this Consent Decree, the following definitions shall apply:
 - (a) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. §§151 *et seq.*;
 - (b) “Assignment Application” means the pending application to assign the license for Station KLIM(AM), Limon, Colorado, to Catholic Radio Network, Inc. (File No. BAL-20141224AAH);
 - (c) “Bureau” means the Media Bureau of the Federal Communications Commission;
 - (d) “Commission” or “FCC” means the Federal Communications Commission;
 - (e) “Effective Date” means the date on which the Bureau releases the Order;
 - (f) “Investigation” means the Bureau’s investigation of Licensee’s violations of the Minimum Operation Rule;
 - (g) “Licensee” means Roger L. Hoppe, II, licensee of Station KLIM(AM), Limon, Colorado
 - (h) “Minimum Operation Rule” means Section 73.1740(a)(1) of the Commission’s Rules, 47 CFR § 73.1740(a)(1);
 - (i) “Order” means an order of the Bureau adopting this Consent Decree;
 - (j) “Parties” means Licensee and the Bureau;
 - (k) “Renewal Application” means the pending application for the renewal of the license for Station KLIM(AM), Limon, Colorado (File No. BR-20121231AME);
 - (l) “Rules” means the FCC’s regulations set forth in Title 47 of the Code of Federal Regulations;
 - (m) “Station” means KLIM(AM), Limon, Colorado (Facility ID No. 25185), licensed to Roger L. Hoppe, II; and
 - (n) “Violation” means the violation of the Minimum Operation Rule.

III. Background

3. On December 31, 2012, the Licensee filed the Renewal Application for the Station's current license term. Therein, the Licensee indicated that the Station was silent for five distinct periods, each just under one year, between 2009 and 2014, including a period from December 11, 2011, to December 6, 2012.¹ Licensee did not request special temporary authority to remain silent during this period, in violation of Section 73.1740(a)(4) of the Rules.² On August 5, 2016, the Bureau issued a *Notice of Apparent Liability for Forfeiture* for the Violation.³ The Licensee has timely requested a reduction in the forfeiture amount proposed in the *NAL* based on financial hardship and submitted a copy of his tax returns in support of this claim.

4. Because of the issues identified in the Bureau's investigation, the Parties have agreed to enter into this Consent Decree, to which both the Licensee and the Bureau intend to be legally bound.

IV. Agreement

5. The Parties acknowledge that any proceeding that might result from the Licensee's violation of the Minimum Operation Rule referred to in Paragraph 3 above, would be time consuming and require substantial expenditure of public and private resources. In order to conserve such resources and to resolve the matter, the Parties are entering into this Consent Decree, in consideration of the mutual commitments made herein.

6. The Licensee and the Bureau agree to be legally bound by the terms and conditions of this Consent Decree. Both the Licensee and the Bureau each represent and warrant that their signatory is duly authorized to enter into this Consent Decree on their behalf. The Licensee agrees that the Bureau has jurisdiction over the matters contained in this Consent Decree.

7. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Licensee and the Bureau concerning the Licensee's Violation at the Station, as discussed herein.

8. In express reliance on the covenants and representations in this Consent Decree, the Bureau agrees that it will not use the Violation in any action against the Licensee, provided that the Licensee satisfies all of its obligations under this Consent Decree. In the event that the Licensee fails to satisfy any of his obligations under this Consent Decree, the Bureau may take any enforcement action available pursuant to the Act and the Rules with respect to each Violation, and/or the violation of this Consent Decree.

9. The Licensee hereby stipulates that he violated the Minimum Operation Rule to the extent described in Paragraph 3 above.

10. The Bureau has agreed to accept and Licensee has agreed to make a civil penalty payment to the United States Treasury in the amount of One Thousand Five Hundred Dollars (\$1,500) within thirty (30) calendar days after the Effective Date. Licensee will also send electronic notification of payment to Alexander Sanjenis at Alexander.Sanjenis@fcc.gov and Karen Workeman at

¹ Renewal Application, Exh. 13.

² 47 CFR § 73.1740(a)(4).

³ Roger L. Hoppe, II, Memorandum Opinion and Order and Notice of Apparent Liability, DA 16-895 (MB Aug. 5, 2016) (*NAL*).

Karen.Workeman@fcc.gov on the date said payment is made. Such payment will be made, without further protest or recourse to a *trial de novo*, by a check or similar instrument, wire transfer or credit card and must include the Account Number and FRN referenced in the caption to the Order. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted. When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions that should be followed based on the form of payment selected:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2- GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

11. The Bureau will grant the pending Renewal Application (File No. BRED-20110729ADL) and Assignment Application (File No. BAL-20141224AAH) after the Effective Date, provided that the following conditions have been met: 1) the Licensee has fully and timely satisfied his obligation to make the payment referenced in Paragraph 10 of this Decree; and 2) there are no issues other than the Violation that would preclude the grant of the Renewal Application or the Assignment Application.

12. The Licensee agrees that he is required to comply with each individual condition of this Consent Decree. Each specific condition is a separate condition of the Consent Decree as approved. To the extent the Licensee fails to satisfy any condition, in the absence of Commission alteration of the condition or Rule, he will be deemed noncompliant and may be subject to possible enforcement action, including, but not limited to, designation of the matter for hearing, letters of admonishment, or forfeitures.

13. The Consent Decree will be binding on the Licensee's successors-in-interest and assigns.

14. The Licensee waives any and all rights that he may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Order, provided that the Order adopts the Consent Decree without change, addition or modification.

15. The Licensee waives any claims that he may otherwise have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 CFR § 1.1501 et seq., relating to the matters discussed in this Consent Decree.

16. The Licensee and the Bureau agree that the effectiveness of this Consent Decree is expressly contingent upon issuance of the Order, provided that the Order adopts the Consent Decree without change, addition, or modification.

17. If any Party (or the United States on behalf of the FCC) brings a judicial action to enforce the terms of the Order, none of the Parties shall contest the continuing validity of the Consent Decree or the Order. The Licensee and the Bureau further agree that they will waive any statutory right to a trial *de novo* with respect to any matter upon which the Order is based (provided in each case that the Order is limited to adopting the Consent Decree without change, addition, or modification), and that they will consent to a judgment incorporating the terms of this Consent Decree.

18. In the event that this Consent Decree is rendered invalid by any court of competent jurisdiction, this Consent Decree shall become null and void and may not be used in any manner in any legal proceeding.

19. This Consent Decree may be signed in counterparts and/or by telecopy and, when so executed, the counterparts, taken together, will constitute a legally binding and enforceable instrument whether executed by telecopy or by original signatures.

**MEDIA BUREAU
FEDERAL COMMUNICATIONS COMMISSION**

By: _____
William T. Lake, Chief

Date: _____

ROGER L. HOPPE, II

By: _____
Roger L. Hoppe, II

Date: _____